

**Notice of Allowability**

Application No.

09/904,088

Examiner

Igor Borissov

Applicant(s)

MALKIN ET AL.

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Pre-Brief Conference Request filed on 10/03/2005.
2. ☒ The allowed claim(s) is/are 1,3,5-16,22 and 23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892).
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_.
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.



### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Nathaniel T. Wallace (Reg. No. 48,909) on November 2, 2005.

3. The application has been amended as follows:

#### **3.1. IN THE SPECIFICATION**

3.1.1 The current Title of the Invention is replaced with the following:  
"Method for Delivering a Product to a Register According to a Tracked Location of a Mobile Device"

3.1.2 The current Abstract of the Disclosure is replaced with the following:  
"A method for providing sales support includes issuing a customer a mobile device and a corresponding identification, wherein the mobile device issues an electronic service request including a customer purchase order for a product having a product identifier, receiving the electronic service request including the customer purchase order, tracking a location of the mobile device issued to the customer, and delivering the product to a checkout register according to the location to which the mobile device is tracked."

Art Unit: 3639

3.2 IN THE CLAIMS

3.2.1 Claims 2, 4, 17-21 and 24-26 have been cancelled.

3.2.2 Claim 1, line 2, instead "the customer" insert "a customer".

**ALLOWABLE SUBJECT MATTER**

4. Claims 1, 3, 5-16, 22 and 23 are allowed.

**REASONS FOR ALLOWANCE**

5. The following is an examiner's statement of reasons for allowance:

5.1 As per independent Claim 1, the best prior art, Zweben et al. (US 2002/0169686) in view of Godsey et al. (US 2002/0161651) and further in view of Jenkins (US 5,186,281) teach a method for using portable devices to provide merchandising information to a consumer in a store, comprising:

*providing a consumer with a mobile device and a corresponding consumer identification (loyalty card) for indicating by said consumer desired products; tracking said consumers in a store environment based on a position of said portable device; and transporting the selected (indicated) by said consumer desired product to the finalizing terminal.*

However, Zweben et al. in view of Godsey et al. and further in view of Jenkins do not teach *delivering the product to a checkout register according to the location to which the mobile device is tracked.*

5.2 As per independent Claim 9, the best prior art, Zweben et al. (US 2002/0169686) in view of Godsey et al. (US 2002/0161651) and further in view of Jenkins (US 5,186,281) teach a method for using portable devices to provide merchandising information to a consumer in a store, comprising:

*providing a consumer with a mobile device and a corresponding consumer identification (loyalty card) for indicating by said consumer desired products by issuing an electronic service request including a purchase order via said mobile device; retrieving data from a database regarding said selected/indicated product; processing said data regarding said selected/indicated product that said consumer would like to purchase; in response to the electronic service request, and upon processing said service request, transmitting an electronic reply to said mobile device regarding said product identified by said consumer; tracking said consumers in a store environment based on a position of said portable device; and transporting the selected (indicated) by said consumer desired product to the finalizing terminal.*

However, Zweben et al. in view of Godsey et al. and further in view of Jenkins do not teach *delivering the product to a checkout register according to the location to which the mobile device is tracked.*

6. The best foreign prior art, JP410340329A to Igarashi, appears to disclose tracking the movement of the customers inside the shopping area in real time by obtaining an intrinsic ID from a transmission tag attached to a shopping basket or cart by radio communication. However, Igarashi does not teach *delivering the product to a checkout register according to the location to which the mobile device is tracked.*

7. The best NPL prior art, "Behind BlueEyes" by Claire Tristram (Technology Review; Cambridge, Mass., 104, 4, 32), teaches monitoring customers moving in and out of the shopping area, as well as tracking customers' activity in a store. However, Tristram does not teach *delivering the product to a checkout register according to the location to which the mobile device is tracked.*

8. The remaining dependent Claims 3, 5-8, 10-16, 22 and 23 are considered allowable, as they are dependent and based off of an allowable independent Claims.

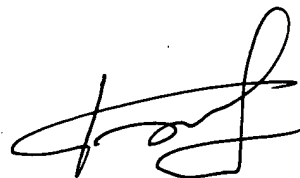
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Igor Borissov  
Patent Examiner  
Art Unit 3639



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11/5/2005